

Attachment to Notice of Allowance

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission filed on 12/21/2010 has been entered.

Status of Claims

2. Claims 1, 2, 5, 8-11, 12, 14-19, 22 and 23 are pending. Claims 1, 2, 5, 8-11, 18, 22 and 23 are under examination. Claims 12 and 14-17 are withdrawn as being drawn to non-elected inventions.

Rejections Withdrawn

3. Rejection of claims 1, 2, 5, 8-11, 18, 22 and 23 under 35 U.S.C. 103(a) as being unpatentable over Margolin et al. WO 02/058721 A1 (prior art of record), and further in view of Colona et al. US 2003/0165875A1 is withdrawn in view of applicants' arguments of 12/21/2010.

EXAMINER'S AMENDMENT

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Michele M. Simkin req# 34,717 on 5/5/2011.

The application has been amended as follows:

Please cancel withdrawn claims **12, 14, 15, 16 and 17**.

Please amend claims 9 and 10 to comply for proper claim dependency.

9. (Currently Amended) The method of claim **6 1**, wherein the sample is from bronchoalveolar lavage fluid.

10. (Currently Amended) The method of claim **7 1**, wherein the sample is from blood serum or blood plasma.

Allowable Subject Matter

5. Claims 1, 2, 5, 8, 9, 10, 11, 18, 19, 22 and 23 are allowed and renumbered 1-11 respectively.

The following is an examiner's statement of reasons for allowance:

The claims are drawn to a method of diagnosing disease of bacterial or fungal origin in a subject, wherein said disease is pneumonia or sepsis, which method comprises the step steps of (a) of measuring a level of the soluble form of the human TREM-1 receptor in a biological sample obtained from said subject; (b) comparing the measured level of the soluble form of the human TREM-1 receptor in the sample with a mean level in a control population of individuals not having disease of bacterial or fungal origin; (c) correlating **elevated levels of the soluble form of the human TREM-1 receptor** with the presence or extent of said disease of bacterial or fungal origin.

The closest prior art Margolin et al. WO 02/058721 A1 and Colona et al. US 2003/0165875A1 fail to teach the above steps specially elevated levels of the soluble form of the human TREM-1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHATOL SHAHNAN SHAH whose telephone number is (571)272-0863. The examiner can normally be reached on Mon, Wed 12:30-6:30 pm, Thurs-Fri 12:30-4:30pm pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary B. Nickol can be reached on (571)-272 0835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Khatol S Shahnan-Shah/
Examiner, Art Unit 1645
May 7, 2011

/Gary B. Nickol /
Supervisory Patent Examiner, Art Unit 1645